REMARKS

Responsive to the requirement for an election of species, Applicants hereby elect prostate cancer cells as the species of transfected cells. Claims readable on the elected species are Claims 16-17, 40-48 and 52.

Applicants also hereby elect a cytomegalovirus promoter as the species of promoter. Claims readable on the elected species are Claims 16-17, 40-49 and 52.

In addition, Applicants hereby elect an adeno-associated virus vector as the species of recombinant viral vector. Claims readable on the elected species are Claims 16-17, 40-46, 48, 49 and 52.

Furthermore, Applicants hereby elect murine leukemia virus vectors as the species of recombinant retroviral viral vector. Claims readable on the elected species are Claims 16-17, 40-49 and 52.

The restriction requirement is being traversed for the reasons set forth in detail below.

The Examiner classified all the claims of Group XI (Claims 16-17, 40-49 and 52), directed to a method of treating an miR15 mediated cancer in a subject in need of such treatment using autologous cells transfected with a nucleic acid comprising a sequence encoding an effective amount of an miR15 gene product, and Group XII (Claims 16-17, 40-49 and 52), directed to a method of treating an miR16 mediated cancer in a subject in need of such treatment using autologous cells transfected with a nucleic acid comprising a sequence encoding an effective amount of an miR16 gene product, into the same class and subclass (class 424, subclass 93.21). The claims of Groups XI and XII are directed to related process inventions. Section 808.02 of the Manual of Patent Examination and Procedure (MPEP) (8th ed., August 2005 Revision, pg. 800-52) states:

> Where, however, the ***classification is the same*** and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or ***related inventions*** (emphasis added).

The claims of Groups XI and XII are directed to a method of treating an miR15 (Group XI) or miR16 (Group XII) mediated cancer in a subject in need of such treatment. The methods of Groups XI and XII include the following steps:

1) isolating cells from the subject;
2) transfecting the cells with a nucleic acid comprising sequences encoding an effective amount of an miR15 (Group XI) or miR16 (Group XII) gene product, respectively; and
3) reimplanting the transfected cells into the subject, such that proliferation of miR15 (Group XI) or miR16 (Group XII) mediated cancer cells in the subject is inhibited.

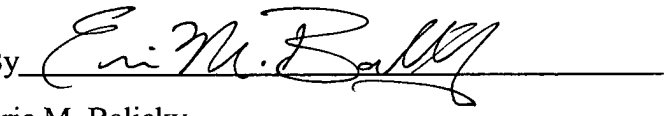
The Examiner has classified the claims of Group XI and Group XII into the same class and subclass. The Examiner has not shown by appropriate explanation that the inventions of the claims of Groups XI and XII have attained a separate status in the art or require a different field of search. Moreover, the Examiner has provided no clear indication of separate future classification and field of search for these inventions. The only statement provided by the Examiner in the Office Action is that "it would be unduly burdensome for the examiner to **search and/or consider the patentability** (examination) of all the inventions in a single application." The Examiner has not explained why there would be a serious burden on the Examiner if restriction is not required (see Section 808.02, MPEP, 8th ed., August Rev., pg. 800-51). Therefore, there is no reason for dividing the related inventions of Group XI and Group XII into different groups and there is no undue search burden on the Examiner to search the inventions of Groups XI and XII.

CONCLUSION

Applicants respectively request rejoinder of the claims of Groups XI and XII. If the Examiner feels that a telephone interview would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 

Eric M. Balicky
Registration No. 57,020
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133

Dated: October 4, 2006